



City of Chicago  
Rahm Emanuel, Mayor

Department of Law

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March 28, 2017

Stanley R. Kaminski, Esq.  
Duane Morris  
190 South LaSalle Street  
Suite 370  
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[SRKaminski@duanemorris.com](mailto:SRKaminski@duanemorris.com)

Re: Parking Aggregators

Dear Stan:

I am writing in response to your letter of January 19, 2017 ("Request") (copy attached), requesting a general information letter ("GIL"), under Uniform Revenue Procedures Ordinance Ruling #3 ("URPO Ruling #3"), concerning the application of the Chicago Parking Lot and Garage Operations Tax ("Parking"), Chapter 4-236 of the Municipal Code of Chicago ("Code"), to the operations of certain "online parking aggregators."

In your Request, you ask us to confirm our agreement with each of the following statements:

- "1. The City requires all online aggregators to collect parking tax on all sales of parking spaces by such online aggregators, if such aggregator receives the consideration from the customer for such parking spaces."
- "2. It is the City's position that it does not matter if the online aggregator only retains a portion of the consideration for the parking, since by receiving the consideration from the customer it is required to collect tax on the entire taxable parking charge."
- "3. The online aggregator is entitled to a credit for any parking tax separately stated and paid by it to the lot operators for remittance to the City."
- "4. The parking lot operator is only liable to remit parking tax on the portion of the parking fee that the aggregator pays to it for the parking, unless the lot operator agrees in writing to receive from the aggregator, and actually receives, the separately stated amount of tax for the entire taxable charge, then in such instances the lot operator shall remit the total parking tax it received on the entire taxable charge, provided however, if the aggregator remits parking tax directly to the City on the entire taxable charge, then no additional tax is due from the lot operator."

Letter to Stanley R. Kaminski

March 28, 2017

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This will confirm that we agree with each of the above statements. See also the Department of Finance Information Bulletin dated June 2015, copy attached.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Weston Hanscom', written in a cursive style.

Weston Hanscom

Deputy Corporation Counsel

Revenue Litigation Division

Department of Law

312-744-9077

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January 19, 2017

Mr. Weston Hanscom, Deputy Corporation Counsel  
CITY OF CHICAGO  
Revenue Litigation Division  
Department of Law  
30 North LaSalle Street, Suite 1020  
Chicago, Illinois 60602-2580

**Re: Parking Aggregators**

Dear Wes:

Please view this letter as a general information letter to request information on the Department of Finance and Laws position on the collection and remittance of Chicago Parking Lot and Garage Operations Tax (Ch. 4-236 of Chicago Mun. Code) by online parking aggregators.

## FACTS

Certain of my clients, parking lot operators, provide parking spaces to online aggregators which sell such spaces to the public. The customer seeking such parking space goes to a website or uses a mobile app of the online parking aggregator to view available parking spaces. The customer seeking the space then purchases, and pays for, the use of the parking space from the aggregator for the price stated on the aggregator website or app. The customer then takes the vehicle to the parking lot and shows the lot operator that the parking space was purchased from the aggregator.

The lot operator agrees to receive from the aggregator a certain fee for each space sold by the aggregator. Basically, after the aggregator sells the space and receives the money from the customer, on a monthly basis the aggregator will then pay to the lot operator the fee it agreed to pay the lot operator for the parking. This fee paid to the lot operator may vary depending on the characteristics of the parking sold by the aggregator (*i.e.*, Duration of Time, Day of Week, Event, etc.).

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Mr. Weston Hanscom, Deputy Corporation Counsel  
January 19, 2017  
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**ISSUE TO BE CONFIRMED**

Please confirm that:

1. The City requires all online aggregators to collect parking tax on all sales of parking spaces by such online aggregators, if such aggregator receives the consideration from the customer for such parking spaces.
2. It is the City's position that it does not matter if the online aggregator only retains a portion of the consideration for the parking, since by receiving the consideration from the customer it is required to collect tax on the entire taxable parking charge.
3. The online aggregator is entitled to a credit for any parking tax separately stated and paid by it to the lot operators for remittance to the City.
4. The parking lot operator is only liable to remit parking tax on the portion of the parking fee that the aggregator pays to it for the parking, unless the lot operator agrees in writing to receive from the aggregator, and actually receives, the separately stated amount of tax for the entire taxable charge, then in such instances the lot operator shall remit the total parking tax it received on the entire taxable charge, provided however, if the aggregator remits parking tax directly to the City on the entire taxable charge, then no additional tax is due from the lot operator

**ANALYSIS**

The Chicago Department of Finance has issued a Chicago Parking Tax Information Bulletin on resellers of parking, including parking aggregators. *See*, Informational Bulletin, Vol. 2015, No. 1 (June 2015). That Bulletin states that some resellers are referred to as "aggregators" and that the aggregator must collect the parking tax from its customers. The Department of Law in explaining this Informational Bulletin has instructed various aggregators that all parking aggregators are required to collect the parking tax if they receive from the customer the consideration for the use of the parking space. Therefore, it is our understanding that the City's position is that an online parking aggregator must always collect the parking tax, and it makes no difference if the aggregator considers itself merely a sales agent rather than a reseller of the parking space. But, it is also our understanding that an aggregator can get a credit for any tax collected by or remitted by it to the lot operator on the parking consideration paid.

It is further our understanding, per the Informational Bulletin stated above, that the parking lot operators is only liable to collect and remit tax on the fees the aggregator pays to the lot operator for the parking spaces, and is not liable to remit tax on the total taxable charges collected by the aggregator from the customer. It is our understanding however, that if the aggregator and lot operator have a written agreement in which the aggregator in addition to the parking fee owed to the lot operator, is required to remit the entire tax on the total taxable charge to the lot operator and such tax is separately stated and actually remitted by the aggregator to the

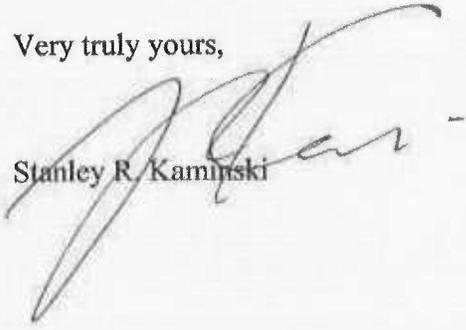
Duane Morris

Mr. Weston Hanscom, Deputy Corporation Counsel  
January 19, 2017  
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lot operator for remittance to the City, then the lot operator would be required to remit all such taxes received.

Can you please issue an information letter confirming the above. If you have any questions, please call.

Very truly yours,

  
Stanley R. Kaminski

SRK:rlc



## INFORMATIONAL BULLETIN

### Chicago Parking Tax

#### **TO:** Registered Parking Lot And Garage Operators

The purpose of this bulletin is to discuss the application of the Parking Lot and Garage Operations Tax ("Parking Tax" or "Tax"), Municipal Code of Chicago ("Code") Chapter 4-236, to resellers of parking privileges.

#### **General Information**

The Parking Tax is imposed on the use and privilege of parking a motor vehicle on or in any parking lot or garage in the City of Chicago ("City"). The ultimate incidence of and liability for payment of the Tax is on the recipient of the privilege. The operator of a parking lot or garage has the duty to secure the Tax from the recipient of the privilege and to remit the Tax to the Department of Finance (the "Department"). A reseller of a parking privilege is an operator of a parking lot or garage.

#### **Application of the Tax to resellers**

The Parking Tax Ordinance (the "Ordinance") includes the following terms:

##### **4-236-010 Definitions.**

"Charge or fee paid for parking" means the gross amount of consideration for the use or privilege of parking a motor vehicle in or upon any parking lot or garage in the City of Chicago, valued in money, whether received in money or otherwise, including cash, credits, property and services, determined without any deduction for costs or expenses whatsoever, but not including charges that are added to the charge or fee on account of the tax imposed by this chapter or on account of any other tax imposed on the charge or fee. The term "charge or fee for parking" shall exclude separately stated charges not for the use or privilege of parking.

"Operator" means any person conducting the operation of a parking lot or garage, as defined by this chapter, or receiving the consideration for parking or storage of motor vehicles at such parking place. (Emphasis added).

"Parking lot" or "garage" means any building, structure, premises, enclosure or other place, whether enclosed or not, except a public way, within the City of Chicago, where four or more motor vehicles are stored, housed or parked for hire, charge, fee or other valuable consideration in a condition ready for use, or where rent or compensation is paid to the owner, manager, operator or lessee of the premises for the housing, storing, sheltering, keeping or maintaining of such motor vehicles.

Under the definition of "operator," a person who resells parking privileges is an operator because such person receives the consideration for the privilege of parking. Some resellers are referred to as "aggregators," because they resell the right to use spaces in numerous lots or garages that they do not own or manage. Hotels and other businesses sometimes act as resellers as well.

#### **Duty of Reseller to Collect the Tax imposed**

Code Section 4-236-020(e) provides: "It shall be the duty of the operator of every parking lot or garage to secure the tax from the recipient of the parking privilege and to remit the tax to the department of finance under procedures prescribed by the comptroller of revenue or as otherwise provided in this chapter."

Under Code section 4-236-020, a reseller is required to collect the Tax on the full amount of the fee or charge that it imposes on its customer.

#### **Remittance - Credit for Resellers**

A reseller that has paid the Tax to another operator (such as the owner of a lot or garage), in connection with the same transaction as the one for which the reseller is required to collect the Tax, may take a credit in that amount against the Tax it would otherwise be required to remit to the Department. In an audit, the reseller will have the burden of proving its entitlement to this credit with books, records and other documentary evidence.

#### **Examples of Tax Collection and Remittance**

1. The customer of an aggregator places an order to park in a garage located in Chicago on Saturday night for the price of \$12.00. The aggregator has arranged with the garage to use spaces in the garage at a price of \$10.00 per space per day, as needed. The garage must charge the aggregator \$12.00 (\$10.00 plus \$2.00 in tax, using the weekend rate of 20%), and it must remit the \$2.00 in tax to the Department. The aggregator must charge its customer a total of \$14.40 (\$12.00 plus tax of \$2.40, using the weekend rate of 20%). The aggregator will be required to remit only \$0.40 for this parking transaction (\$2.40 minus the \$2.00 in tax it paid to the garage).

2. A hotel purchases the privilege of using 50 parking spaces at an adjacent parking garage in Chicago at a price of \$100.00 per space per month, for the purpose of reselling the use of those spaces to its hotel guests. The garage must charge the hotel \$122.00 (\$100.00 plus tax of \$22.00, using the monthly rate of 22%), and it must remit the \$22.00 in tax to the Department. If the hotel resells the use of one such space to a guest at a price of \$20.00 on a weekday, it must charge its guest \$24.40 (\$20.00 plus tax of \$4.40, using the weekday rate of 22%). At the end of the month, the hotel will be required to remit the difference between the total amount of tax it collected from its guests for daily parking during the month

and the \$22.00 in tax that it paid to the garage for the monthly parking privileges it used in connection with the same daily parking. The above example assumes use of the weekday rate of 22% for the daily parking of the guest. For daily parking on weekends, the rate is 20%.

3. Assume the same facts as in example 2 above, but over the course of the month the hotel does not sell enough daily parking to its guests to create a tax remittance obligation of at least \$1,100 for the 50 spaces it leased at the garage (\$22.00 x 50). The hotel has no tax remittance liability for that month; however, any deficit for that month may not be used to offset the hotel's remittance obligation for another month, as the credit is only for taxes paid in connection with the same transaction as the one for which a reseller is required to collect the tax, and payments to a garage for a different month would not meet that requirement.

### **Monthly Remittances**

Unless otherwise provided by Code sections 3-4-187(B) and 3-4-188, every operator (including a reseller) is required to remit the amount of Tax due on or before the fifteenth day following the end of the monthly tax period in which the liability was incurred directly to the Department. The Tax shall be accompanied by a remittance coupon as prescribed by the comptroller.

### **Annual Tax Returns**

Every operator (including a reseller) is required to file an annual tax return with the Department, regardless of whether any Tax is due. For operators other than resellers, such return shall include a separate site schedule for each individual lot, garage or other site operated by the operator. However, a reseller need not provide such separate site schedule.

### **Registration**

Every operator (including a reseller) must register with the Department.

### **Questions?**

If you have questions or need more information, please write us. Our address is:

**City of Chicago**

**Department of Finance**  
**Tax Division**  
c/o \_\_\_\_\_  
**333 South State Street, Suite 300**  
**Chicago, Illinois 60604-3977**